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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,618	04/19/2001	Mitsuhiro Nishida	K-1974	8068

7590 12/19/2003

KANESAKA AND TAKEUCHI
1423 Powhatan Street
Alexandria, VA 22314

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/837,618

Applicant(s)

NISHIDA ET AL.

Examiner

Lawrence D Ferguson

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-19, 21, 23, 24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-19, 21, 23-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment mailed October 2, 2003.

Claims 16 was amended rendering claims 16-19, 21, 23-24 and 26-28 pending.

Claim Rejections – 35 USC § 103(a)

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16-19, 21, 23-24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oka et al (U.S. 6,335,832) in view of Glaubitt et al (U.S. 6,177,131) for reasons previously stated in the Office Action submitted on May 12, 2003. Regarding the newly added limitation to claim 16, the prior art of Oka et al. includes such limitation because Oka shows that the high refractive index layer has a refractive index which is higher than that of the hardcoat layer which has a refractive index of at least 1.63 (column 27, line 31 to column 29, lines 36). Oka shows that the refractive index of the low refractive index layer (surface layer) is about 1.35-1.45 (column 29, line 41 to column 30, line 35) and comprises inorganic particles with low refractive indices and hardness such as a fluorocarbon polymer (column 54, lines 1-17). Additionally, in

amended claim 16, the terms "is formed... is coated on... enters into the pores of said precursory layer" introduces process limitations to the respective product claims. The patentability of a product does not depend on its method of production. If the product in the product by process claim is the same as or obvious from a product of the prior art, the claims are unpatentable even though the prior art was made by a different process. MPEP 2113 .

Response to Arguments

4. Applicant did not make any arguments in regards to rejection made under 35 USC 103(a) as being unpatentable over Oka et al (U.S. 6,335,832) in view of Glaubitt et al (U.S. 6,177,131), therefore, the rejection is maintained for reasons of record.

Regarding the newly added limitation to claim 16, the prior art of Oka et al. includes such limitation because Oka shows that the high refractive index layer has a refractive index which is higher than that of the hardcoat layer which has a refractive index of at least 1.63 (column 27, line 31 to column 29, lines 36). Oka shows that the refractive index of the low refractive index layer (surface layer) is about 1.35-1.45 (column 29, line 41 to column 30, line 35) and comprises inorganic particles with low refractive indices and hardness such as a fluorocarbon polymer (column 54, lines 1-17). Additionally, in amended claim 16, the terms "is formed... is coated on... enters into the pores of said precursory layer" introduces process limitations to the respective product claims. The patentability of a product does not depend on its method of production. If the product in

Art Unit: 1774

the product by process claim is the same as or obvious from a product of the prior art, the claims are unpatentable even though the prior art was made by a different process. MPEP 2113 .

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



Lawrence D. Ferguson
Examiner
Art Unit 1774

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